2009 Chief FOIA Officer Report

I . Steps Taken to Ensure the Presumption of Openness

1. Description

- All DOJ guidance, FOIA-related memoranda and policy immediately distributed to Agency's FOIA Public Liaisons and Service Center Representatives.
- All FOIA responses reviewed for compliance with presumption of openness.
- Contacted any office that provided a response that did not properly apply presumption of openness. If necessary required that office amend the response to provide the greatest disclosure. On occasion remanded cases for re-processing.
- Updated FOIA request referral memorandum to include presumption of openness language.
- Provided individualized FOIA training and guidance to agency personnel and stressed presumption of openness policy.

Statistics/Examples:

SBA primarily cites Exemptions 4, 5 and 6 as the basis for the denial of information.

Much of the information withheld is commercial or personal and is therefore protected pursuant to Exemptions 4 and 6 respectively. However, exemption 5 is cited less frequently than Exemptions 4 and 6 both at the initial level and at the appellate level.

09 - Ex. 5 cited in .02% of all FOIA responses
08 - Ex. 5 cited in .03% of all FOIA responses

2. Disclosure Comparisions

Is there an increase in number of full disclosures? Yes, in FY 2009 SBA increased the number of full disclosures.

2009: 3204 initial full disclosures, 14 appellate full disclosures
186 partial initial disclosures, 9 partial appellate disclosures
24 initial full denials

2008: 2250 initial full disclosures, 5 appellate full disclosures
132 partial initial disclosures, 2 partial appellate disclosures
44 initial full denials

II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests

The SBA established the Freedom of Information and Privacy Acts Office (FOI/PA) in 1977 to provide management oversight and implementation of the Agency's FOIA and PA programs in accordance with Title 5 of the United States Code, sections 552 and 552a. The FOI/PA Office adjudicates administrative appeals and provides guidance and training to Agency staff with regard to the collection, use, and disclosure of Agency information. The FOI/PA staff consists of the Chief of the FOI/PA Office and two FOIA Specialists. The Office operates under the direction of the Agency Chief FOIA Officer. Pursuant to EO 13392, the FOI/PA Office is designated as a FOIA Requester Service Center along with all of Agency program and field offices.

The SBA's FOIA process is decentralized, which allows the program and/or field office(s) that maintain the requested records to provide the initial response to the requester. For approximately the past 17 years, SBA has maintained official FOIA contacts in all program and field offices. Requesters may submit initial requests either to the FOI/PA Office or to the SBA office that maintains the pertinent records. Routinely within 48 hours of receipt of a request, the case is entered into the Agency's FOIA Tracking System, an acknowledgment is provided to the requester that includes the case tracking number and when necessary, a referral to the appropriate Agency office(s) . When a referral is made, the requester is provided with the contact information of the responding office(s).

The FOI/PA Office provides both general and detailed guidance at the initial level. At times the Office defers some issues to the Agency's Office of General Counsel (OGC) to avoid

compromising a requester's administrative FOIA appeal rights. The Office advocates on behalf of requesters by constant and instant communication with all FOIA contacts and the vigilant reinforcement of the presumption of openness and disclosure. In order to provide the public with the greatest FOIA benefit, when deemed necessary an office may be instructed to amend the initial response for broader disclosure or in selected cases a remand may be made for a more thorough review and response. In FY 09 SBA's median response time for all processed, perfected FOIA requests was 8 days and the average response time was 11.67 days. Therefore, the vast majority of FOIA requesters routinely receive prompt, timely FOIA processing from SBA. Reponses to perfected requests in which information was granted, were in 6.5 median days. In FY 2009, of the 3898 initial requests SBA responded to, there were 3204 full disclosures, 186 partial disclosures and only 24 full denials.

SBA vigorously promotes electronic FOIA activity. The majority of initial FOIA requests that SBA receives are submitted electronically. Acknowledgments, referrals and responses are provided electronically whenever possible. Electronic correspondence allows the FOIA staff to provide guidance much more rapidly and broadly than conventional correspondence methods. This also allows the FOI/PA staff to promptly review responses for accuracy and consistency and to take necessary action if a response does not uphold the principles of disclosure and openness .

Approximately 15 years ago the FOI/PA Office began using an electronic FOIA Tracking System. Six years ago the system was deployed agency-wide and at that time SBA began providing requesters with a case tracking number and contact information for the responding office(s). All FOIA contacts are responsible for updating and maintaining the system for their office. To ensure privacy, access to the system is limited by job performance need and is also password protected.

To further ensure that SBA upholds the spirit of disclosure and properly recognizes that FOIA is the responsibility of all employees, in 2003 SBA began an annual mandatory online FOIA training requirement for all agency employees. In addition, FOIA training is accessible to all SBA employees through an electronic training site. The training materials include a video of a FOIA training session hosted by SBA and conducted by Melanie Pustay, DOJ, that specifically addresses SBA records.

III: Steps Taken to Increase Proactive Disclosures

The following new information has been posted on SBA websites since January 1, 2009

- Video: White House Ceremony Honoring National Small Business Week Award Winners
- Video: Administrator Karen Mills Address at National Small Business Week
- Improving SBA Data: Commentary by Calvin Jenkins
- SBA Disaster Loans Fact Sheet
- Disaster Media Guide
- SBA Disaster Preparedness PSA
- Contact SBA Headquarters
- Contact SBA Headquarters news Media Staff
- Patriot Express Press Kit
- FAQs from the SBA and Office of Inspector General regarding Recovery Act Oversight
- Version 2009.3 of 7(a) Authorization Boilerplate and Wizard Issued
- Version 2009.4 of the 7(a) Boilerplate Authorization and Wizard Released
- New G845 Mailing Instructions
- Lender and Development Company Loan Programs
- Fact Sheets regarding Dealer Floor Plan Loans, ARC Loans and Recover Act Programs
- Created new OIG site and implemented RSS feed
- Created new website for the Small Business Training Network
- Created new Hubzone site
- Posted financial reports and news releases weekly. Updated RSS / ATOM Feeds
- Created Workers Compensation site under Employee Assistance
- Created new website to promote a new Arc Loan program
- Created new eLending recovery site
- Created Recovery Site for Postings
- Created new page for Floor plan financing program
- Created new Financial Assistance site
- Created new SBTN layout and design

- Created new Strategies for Growth website offering up videos from Dell
- Updated some of the FAQs with new links and current information
- Created Queue Wind Down Site – Recovery
- Created Contracting Opportunity site
- Prepared and approved posting of Dynamic Small Business Search system

IV. Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically.

Yes, SBA currently receives almost all requests electronically at foia@sba.gov(link sends e-mail) and as often as possible responses are provided electronically whenever possible.

2. If not, what the current impediments to your agency establishing a mechanism to receive requests electronically.

N/A

3. Does your agency track requests electronically?

Yes, SBA tracks requests electronically through our agency-wide FOIA Tracking System.

4. If not, what are the current impediments to your agency utilizing a system to track electronically?

N/A

5. Does your agency use technology to process requests?

All requests for information contained in databases are responded to electronically. However with the exception of one office, SBA does not currently have the technology to make electronic redactions.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

SBA is currently identifying cost-effective systems that meet our needs and address the processing requirements of our decentralized FOIA process.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes, SBA utilizes technology to prepare the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

N/A

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. Backlog Status:

In FY 09 SBA reduced its backlog of initial and appellate responses
FY 09: 3898 requests processed
8 requests backlogged = approximately .020% of processed requests
39 appeals processed, 0 appeals backlogged = 0% backlogged

FY 08: 2640 requests processed
8 requests backlogged = approximately .03% of processed requests
22 appeals processed, 1 appeal backlogged = approximately 4.3%

Age of those requests and appeals: Request ages ranged from 30 to 237 days. The 237-day request pertained to records associated with a pending investigation.

2. Backlog Reduction Steps:

N/A

3. Steps to Improve Timeliness:

The steps SBA has taken to improve timeliness in responding to requests and appeals:

- Continue emphasis on the importance, significance and visibility of the FOIA;
- Mandatory FOIA training for all Agency employees, not only the FOIA Contacts and Public Liaisons;
- Mandatory access and use of the FOIA Tracking System for all Agency FOIA Contacts and Public Liaisons;
- Individualized FOIA assistance and guidance for employees and offices provided by the FOI/PA Office;
- Continued commitment to dialogue with requesters to refine and clarify requests;
- Continue to promote the use of electronic responses whenever possible;
- FOI/PA Office acts as a conduit between requesters and responding offices to ensure prompt, accurate responses;
- Review and assessment of FOIA software systems and products to encourage enhanced use of technology in processing FOIA requests.